
A BILL FOR AN ACT

RELATING TO THE STATE FIRE MARSHAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in the aftermath of
2 the Lahaina wildfire, six house of representatives interim
3 working groups were established and charged with evaluating
4 specific topics related to the wildfire and making
5 recommendations for appropriate legislative action in the
6 regular session of 2024. The wildfire prevention working group
7 was tasked to identify the causes of wildfires and preventative
8 action that may be taken to reduce the risk of wildfires
9 throughout the State.

10 The legislature further finds that Hawaii is the only state
11 without a state fire marshal. In 1979, the position of the
12 state fire marshal was abolished and replaced with the state
13 fire council. The state fire council is now composed of the
14 fire chiefs of the four counties, the state aircraft rescue
15 firefighting unit, and the state protections forester from the
16 department of land and natural resources, division of forestry
17 and wildlife. The state fire council's members serve as non-
18 compensated volunteers as their time allows from their full-time



1 employment. The state fire council has an office staff
2 consisting of two part-time administrative specialists. The
3 legislature further finds that rising global temperatures have
4 increased the risk of fires and dangerous weather conditions in
5 the State and as these risks increase, the State will be better
6 served by having a dedicated state fire marshal.

7 Accordingly, the purpose of this Act is to re-establish the
8 position of the state fire marshal by establishing the office of
9 the state fire marshal within the department of labor and
10 industrial relations, headed by the state fire marshal.

11 SECTION 2. Chapter 132, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 **"§132- Office of the state fire marshal; established.**

15 (a) There is established the office of the state fire marshal
16 within the department of labor and industrial relations. The
17 office shall be headed by a state fire marshal, who shall be
18 appointed by the state fire council to serve for a term of five
19 years. The appointment of the state fire marshal shall be made
20 without regard to chapters 76 and 89, and shall not be subject
21 to the advice and consent of the senate. In the event of a



1 vacancy, the state fire council shall meet expeditiously to
2 select and appoint a new state fire marshal to serve the
3 remainder of the unexpired term. The state fire marshal may
4 hire staff as necessary.

5 (b) The state fire marshal shall have the qualifications,
6 experience, and expertise in fire safety, prevention, and
7 control necessary to successfully perform the duties of the
8 position.

9 (c) The duties of the state fire marshal shall include but
10 not be limited to:

11 (1) Coordinating fire protection efforts between local
12 agencies for the State;

13 (2) Working with the state fire council on matters
14 relating to fire services in the State;

15 (3) Working with state and county law enforcement agencies
16 for enforcement of the state fire code;

17 (4) Reviewing and assessing the fire risk of the State;

18 (5) Reviewing and proposing amendments to the state fire
19 code and submitting the proposed amendments to the
20 state fire council for the state fire council's



- 1 consideration in its adoption of or amendments to the
- 2 state fire code;
- 3 (6) Reviewing the emergency resources that are available
- 4 in the State to be deployed to address fires;
- 5 (7) Assessing whether the State would benefit from a
- 6 statewide public fire safety messaging program;
- 7 (8) Assisting in the investigation of fires when requested
- 8 by a county;
- 9 (9) Conducting inspections of state buildings and
- 10 facilities to ensure fire safety compliance;
- 11 (10) Providing and coordinating public education and
- 12 awareness on fire safety;
- 13 (11) Overseeing the training and certification of fire
- 14 inspectors and investigators in the State;
- 15 (12) Maintaining records of all fires in the State,
- 16 including the causes and circumstances;
- 17 (13) Assisting in the disbursement of federal grants for
- 18 structural fire protection purposes to the counties;
- 19 and
- 20 (14) Performing other duties as necessary or delegated by
- 21 the state fire council.



1 (d) In carrying out the duties of this section, the state
2 fire marshal may utilize the services of the state fire council,
3 including its advisory committees and administrative staff, as
4 appropriate."

5 SECTION 3. Section 76-16, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) The civil service to which this chapter applies shall
8 comprise all positions in the State now existing or hereafter
9 established and embrace all personal services performed for the
10 State, except the following:

11 (1) Commissioned and enlisted personnel of the Hawaii
12 National Guard as such, and positions in the Hawaii
13 National Guard that are required by state or federal
14 laws or regulations or orders of the National Guard to
15 be filled from those commissioned or enlisted
16 personnel;

17 (2) Positions filled by persons employed by contract where
18 the director of human resources development has
19 certified that the service is special or unique or is
20 essential to the public interest and that, because of
21 circumstances surrounding its fulfillment, personnel



- 1 to perform the service cannot be obtained through
2 normal civil service recruitment procedures. Any such
3 contract may be for any period not exceeding one year;
- 4 (3) Positions that must be filled without delay to comply
5 with a court order or decree if the director
6 determines that recruitment through normal recruitment
7 civil service procedures would result in delay or
8 noncompliance, such as the Felix-Cayetano consent
9 decree;
- 10 (4) Positions filled by the legislature or by either house
11 or any committee thereof;
- 12 (5) Employees in the office of the governor and office of
13 the lieutenant governor, and household employees at
14 Washington Place;
- 15 (6) Positions filled by popular vote;
- 16 (7) Department heads, officers, and members of any board,
17 commission, or other state agency whose appointments
18 are made by the governor or are required by law to be
19 confirmed by the senate;
- 20 (8) Judges, referees, receivers, masters, jurors, notaries
21 public, land court examiners, court commissioners, and



1 attorneys appointed by a state court for a special
2 temporary service;

3 (9) One bailiff for the chief justice of the supreme court
4 who shall have the powers and duties of a court
5 officer and bailiff under section 606-14; one
6 secretary or clerk for each justice of the supreme
7 court, each judge of the intermediate appellate court,
8 and each judge of the circuit court; one secretary for
9 the judicial council; one deputy administrative
10 director of the courts; three law clerks for the chief
11 justice of the supreme court, two law clerks for each
12 associate justice of the supreme court and each judge
13 of the intermediate appellate court, one law clerk for
14 each judge of the circuit court, two additional law
15 clerks for the civil administrative judge of the
16 circuit court of the first circuit, two additional law
17 clerks for the criminal administrative judge of the
18 circuit court of the first circuit, one additional law
19 clerk for the senior judge of the family court of the
20 first circuit, two additional law clerks for the civil
21 motions judge of the circuit court of the first



1 circuit, two additional law clerks for the criminal
2 motions judge of the circuit court of the first
3 circuit, and two law clerks for the administrative
4 judge of the district court of the first circuit; and
5 one private secretary for the administrative director
6 of the courts, the deputy administrative director of
7 the courts, each department head, each deputy or first
8 assistant, and each additional deputy, or assistant
9 deputy, or assistant defined in paragraph (16);

10 (10) First deputy and deputy attorneys general, the
11 administrative services manager of the department of
12 the attorney general, one secretary for the
13 administrative services manager, an administrator and
14 any support staff for the criminal and juvenile
15 justice resources coordination functions, and law
16 clerks;

17 (11) (A) Teachers, principals, vice-principals, complex
18 area superintendents, deputy and assistant
19 superintendents, other certificated personnel, no
20 more than twenty noncertificated administrative,



1 professional, and technical personnel not engaged
2 in instructional work;
3 (B) Effective July 1, 2003, teaching assistants,
4 educational assistants, bilingual/bicultural
5 school-home assistants, school psychologists,
6 psychological examiners, speech pathologists,
7 athletic health care trainers, alternative school
8 work study assistants, alternative school
9 educational/supportive services specialists,
10 alternative school project coordinators, and
11 communications aides in the department of
12 education;
13 (C) The special assistant to the state librarian and
14 one secretary for the special assistant to the
15 state librarian; and
16 (D) Members of the faculty of the University of
17 Hawaii, including research workers, extension
18 agents, personnel engaged in instructional work,
19 and administrative, professional, and technical
20 personnel of the university;



- 1 (12) Employees engaged in special, research, or
- 2 demonstration projects approved by the governor;
- 3 (13) (A) Positions filled by inmates, patients of state
- 4 institutions, persons with severe physical or
- 5 mental disabilities participating in the work
- 6 experience training programs;
- 7 (B) Positions filled with students in accordance with
- 8 guidelines for established state employment
- 9 programs; and
- 10 (C) Positions that provide work experience training
- 11 or temporary public service employment that are
- 12 filled by persons entering the workforce or
- 13 persons transitioning into other careers under
- 14 programs such as the federal Workforce Investment
- 15 Act of 1998, as amended, or the Senior Community
- 16 Service Employment Program of the Employment and
- 17 Training Administration of the United States
- 18 Department of Labor, or under other similar state
- 19 programs;
- 20 (14) A custodian or guide at Iolani Palace, the Royal
- 21 Mausoleum, and Hulihee Palace;



1 (15) Positions filled by persons employed on a fee,
2 contract, or piecework basis, who may lawfully perform
3 their duties concurrently with their private business
4 or profession or other private employment and whose
5 duties require only a portion of their time, if it is
6 impracticable to ascertain or anticipate the portion
7 of time to be devoted to the service of the State;
8 (16) Positions of first deputies or first assistants of
9 each department head appointed under or in the manner
10 provided in section 6, article V, of the Hawaii State
11 Constitution; three additional deputies or assistants
12 either in charge of the highways, harbors, and
13 airports divisions or other functions within the
14 department of transportation as may be assigned by the
15 director of transportation, with the approval of the
16 governor; one additional deputy in the department of
17 human services either in charge of welfare or other
18 functions within the department as may be assigned by
19 the director of human services; four additional
20 deputies in the department of health, each in charge
21 of one of the following: behavioral health,



1 environmental health, hospitals, and health resources
 2 administration, including other functions within the
 3 department as may be assigned by the director of
 4 health, with the approval of the governor; two
 5 additional deputies in charge of the law enforcement
 6 programs, administration, or other functions within
 7 the department of law enforcement as may be assigned
 8 by the director of law enforcement, with the approval
 9 of the governor; three additional deputies each in
 10 charge of the correctional institutions,
 11 rehabilitation services and programs, and
 12 administration or other functions within the
 13 department of corrections and rehabilitation as may be
 14 assigned by the director or corrections and
 15 rehabilitation, with the approval of the governor; an
 16 administrative assistant to the state librarian; and
 17 an administrative assistant to the superintendent of
 18 education;

19 (17) Positions specifically exempted from this part by any
 20 other law; provided that:



- 1 (A) Any exemption created after July 1, 2014, shall
- 2 expire three years after its enactment unless
- 3 affirmatively extended by an act of the
- 4 legislature; and
- 5 (B) All of the positions defined by paragraph (9)
- 6 shall be included in the position classification
- 7 plan;
- 8 (18) Positions in the state foster grandparent program and
- 9 positions for temporary employment of senior citizens
- 10 in occupations in which there is a severe personnel
- 11 shortage or in special projects;
- 12 (19) Household employees at the official residence of the
- 13 president of the University of Hawaii;
- 14 (20) Employees in the department of education engaged in
- 15 the supervision of students during meal periods in the
- 16 distribution, collection, and counting of meal
- 17 tickets, and in the cleaning of classrooms after
- 18 school hours on a less than half-time basis;
- 19 (21) Employees hired under the tenant hire program of the
- 20 Hawaii public housing authority; provided that not
- 21 more than twenty-six per cent of the authority's



- 1 workforce in any housing project maintained or
2 operated by the authority shall be hired under the
3 tenant hire program;
- 4 (22) Positions of the federally funded expanded food and
5 nutrition program of the University of Hawaii that
6 require the hiring of nutrition program assistants who
7 live in the areas they serve;
- 8 (23) Positions filled by persons with severe disabilities
9 who are certified by the state vocational
10 rehabilitation office that they are able to perform
11 safely the duties of the positions;
- 12 (24) The sheriff;
- 13 (25) A gender and other fairness coordinator hired by the
14 judiciary;
- 15 (26) Positions in the Hawaii National Guard youth and adult
16 education programs;
- 17 (27) In the state energy office in the department of
18 business, economic development, and tourism, all
19 energy program managers, energy program specialists,
20 energy program assistants, and energy analysts;



- 1 (28) Administrative appeals hearing officers in the
- 2 department of human services;
- 3 (29) In the Med-QUEST division of the department of human
- 4 services, the division administrator, finance officer,
- 5 health care services branch administrator, medical
- 6 director, and clinical standards administrator;
- 7 (30) In the director's office of the department of human
- 8 services, the enterprise officer, information security
- 9 and privacy compliance officer, security and privacy
- 10 compliance engineer, security and privacy compliance
- 11 analyst, information technology implementation
- 12 manager, assistant information technology
- 13 implementation manager, resource manager,
- 14 community/project development director, policy
- 15 director, special assistant to the director, and
- 16 limited English proficiency project
- 17 manager/coordinator;
- 18 (31) The Alzheimer's disease and related dementia services
- 19 coordinator in the executive office on aging;
- 20 (32) In the Hawaii emergency management agency, the
- 21 executive officer, public information officer, civil



1 defense administrative officer, branch chiefs, and
2 emergency operations center state warning point
3 personnel; provided that for state warning point
4 personnel, the director shall determine that
5 recruitment through normal civil service recruitment
6 procedures would result in delay or noncompliance;

7 (33) The executive director and seven full-time
8 administrative positions of the school facilities
9 authority;

10 (34) Positions in the Mauna Kea stewardship and oversight
11 authority;

12 (35) In the office of homeland security of the department
13 of law enforcement, the statewide interoperable
14 communications coordinator; [~~and~~]

15 (36) In the social services division of the department of
16 human services, the business technology analyst[-];
17 and

18 (37) The state fire marshal.

19 The director shall determine the applicability of this
20 section to specific positions.



1 Nothing in this section shall be deemed to affect the civil
2 service status of any incumbent as it existed on July 1, 1955."

3 SECTION 4. Section 132-16, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) In addition to adopting a state fire code pursuant to
6 section 132-3, the state fire council shall:

7 (1) Administer the requirements for reduced ignition
8 propensity cigarettes, in accordance with chapter
9 132C; [and]

10 (2) Serve as a focal point through which all applications
11 to the federal government for federal grant assistance
12 for fire-related projects shall be made. Upon the
13 receipt of any such federal grants, the state fire
14 council shall administer those federal grants[-];

15 (3) Establish the terms of employment for the position of
16 the state fire marshal; and

17 (4) Appoint the state fire marshal."

18 SECTION 5. The state fire council shall submit a report of
19 its findings and recommendations, including any proposed
20 legislation, to the legislature by November 1, 2024. The report
21 shall include the following, at minimum:



- 1 (1) An organizational plan, including structure and
2 personnel plan, for the office of the state fire
3 marshal;
- 4 (2) A description of the roles and division of
5 responsibilities between the State and the counties,
6 and the office of the state fire marshal and the state
7 fire council, regarding fire prevention and response;
8 and
- 9 (3) Proposed operating budget for the office of the state
10 fire marshal.

11 SECTION 6. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$172,000 or so much
13 thereof as may be necessary for fiscal year 2024-2025 for the
14 following:

- 15 (1) \$120,000 for the establishment of one full-time
16 equivalent (1.00 FTE) permanent state fire marshal
17 position;
- 18 (2) \$40,000 for the establishment of one full-time
19 equivalent (1.00 FTE) permanent position to support
20 the state fire marshal; and



1 (3) \$12,000 for training, office supplies, rent, and other
2 operating and administrative costs to support the
3 state fire marshal,
4 in carrying out the purposes of this Act.

5 The sum appropriated shall be expended by the department of
6 labor and industrial relations for the purposes of this Act.

7 SECTION 7. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act shall take effect on July 1, 2024.



Report Title:

Fire Protection; Office of the State Fire Marshal; State Fire Council; Report; Appropriations

Description:

Establishes the Office of the State Fire Marshal within the Department of Labor and Industrial Relations to be headed by a State Fire Marshal. Exempts the State Fire Marshal from Civil Service Law. Requires the State Fire Council to establish the terms of employment for the State Fire Marshal and appoint the State Fire Marshal to serve for a term of five years. Requires the State Fire Council to report to the Legislature. Makes appropriations. (CD1)

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